

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA

The Religious Sisters of Mercy; Sacred Heart Mercy Health Care Center (Jackson, MN); Sacred Heart Mercy Health Care Center (Alma, MI); Alma, MI); SMP Health System; University of Mary;

and

State of North Dakota,

Plaintiffs,

vs.

Sylvia Burwell, Secretary of the United States Department of Health and Human Services; and United States Department of Health and Human Services,

Defendants.

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Catholic Benefits Association, Diocese of Fargo, and Catholic Charities North America,

Plaintiffs,

vs.

Sylvia M. Burwell, Secretary of the United States Department of Health and Human Services; United States Department of Health and Human Services; Jenny R. Yang, Chair of the United States Equal Employment Opportunity Commission; and United States Equal Employment Opportunity Commission,

Defendants.

Civil File No. 3:16-cv-386

Civil File No. 3:16-cv-432

**SEALED ORDER STAYING ENFORCEMENT**

The above-captioned cases contain issues related to Section 1557 of the Affordable Care Act. Some of the rules at issue are set to take effect on January 1, 2017. Pending

before the court are the following motions in Case No. 3:16-cr-386: motion for preliminary injunction;<sup>1</sup> emergency motion for remittal of disqualification;<sup>2</sup> motion to expedite the plaintiffs' motion for preliminary injunction;<sup>3</sup> and motion for a hearing.<sup>4</sup> In Case No. 3:16-cr-432, there is a pending motion for a temporary restraining order<sup>5</sup> that was filed on December 28, 2016, and in which a decision is sought before January 1, 2017.

On December 29, 2016, the undersigned sent to the parties a notice concerning waiver of judicial disqualification. Issues surrounding disqualification were not intended to be made public at this time. However, the plaintiffs in Case No. 3:16-cv-386 have filed "emergency" motions regarding the notice. In addition, the defendants in Case No. 3:16-cv-432 have stated they will need seven days to file a response to the notice.

In light of the uncertainty regarding which judge will address the merits of the case and the imminent deadline of January 1, 2017, the court **HEREBY ORDERS** that enforcement of Rule 1557 as against the named plaintiffs in these two cases be **STAYED** pending a determination on the recusal issues and until such time as a hearing can be held on the pending motions.

**IT IS SO ORDERED.**

Dated this 30th day of December, 2016.

/s/ Ralph R. Erickson  
Ralph R. Erickson, District Judge  
United States District Court

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<sup>1</sup> Doc. #5.

<sup>2</sup> Doc. #21.

<sup>3</sup> Doc. #21.

<sup>4</sup> Doc. #22.

<sup>5</sup> Doc. #3